


AO 91 (Rev. 11/11) Criminal Complaint

**FILED****UNITED STATES DISTRICT COURT**for the  
Western District of Texas

SEP - 4 2018

CLERK, U.S. DISTRICT CLERK  
WESTERN DISTRICT OF TEXAS  
BY  DEPUTY

United States of America )

v. )

LEIVIN PINEDA )

Case No. DR:18-8142M-01

\_\_\_\_\_  
*Defendant(s)***CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 2, 2018 in the county of Maverick in the  
Western District of Texas, the defendant(s) violated:*Code Section*Title 18, United States Code,  
Section(s) 111 (b)*Offense Description*Assaulting, resisting, or impeding certain officers or employees with a deadly  
or dangerous weapon

This criminal complaint is based on these facts:


See attached affidavit.

☒ Continued on the attached sheet.*Complainant's signature*

Eladio Castillo, FBI Special Agent

*Printed name and title*

Sworn to before me and signed in my presence.

Date: 09/04/2018City and state: Del Rio, Texas  
*Judge's signature*

Victor Garcia, U.S. Magistrate Judge

*Printed name and title*

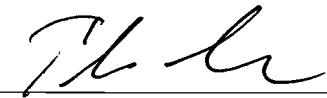
**AFFIDAVIT FOR COMPLAINT  
LEIVIN PINEDA**


I, Eladio Castillo, being duly sworn, do hereby depose and state:

1. I am a Special Agent (SA), with the Federal Bureau of Investigation (FBI) and have been employed in that capacity since July, 2015. I am currently assigned to the FBI San Antonio Division - Del Rio Resident Agency (DRRA). As an FBI Agent, my duties include the investigation of gangs, criminal enterprises, fugitives, assaults on federal officers, and other violent crime.
2. I am personally familiar with the facts and circumstances surrounding this investigation, from my own investigative activities, and from information obtained from other law enforcement officers with personal knowledge of the facts. The following information was obtained by me personally or has been provided to me by Special Agents assigned to the FBI DRRA and other law enforcement officers.
3. This affidavit is submitted only for the limited purpose of securing a criminal complaint; I have not set forth each and every fact known to the FBI concerning this investigation. I have included what I believe are the facts sufficient to establish probable cause for the complaint sought.
4. As further set forth below, I am conducting an investigation into an Assault on a Federal Officer, with a deadly or dangerous weapon, in violation of Title 18, United States Code, Section(s) 111 (b) by LEIVIN PINEDA, born on July 26, 1970 in Aldea Carrizales Siguatepeque, Comayagua, Honduras.
5. On September 2, 2018 at approximately 9:54 a.m., United States Border Patrol Agents (BPA) R.M. and J.L. were conducting routine patrol on FM 1907, Eagle Pass, Texas, Maverick County, Texas, which is in the Western District of Texas. During the patrol, BPA R.M. and J.L. observed an unknown male, who they believed to be an undocumented illegal alien, walking on the roadway. The unknown male was later

identified as LEIVIN PINEDA. The BPAs attempted to approach PINEDA, but PINEDA fled on foot into the brush. BPAs gave verbal commands in Spanish to PINEDA to stop fleeing, but PINEDA did not comply, and continued to flee from the BPAs. During the pursuit, PINEDA turned, faced the BPAs with a stick in his hand, and waved the stick in their direction. BPAs gave verbal commands to PINEDA to stop, but PINEDA did not comply, and began lobbing rocks at the BPAs. PINEDA stopped throwing the rocks and ran from the BPAs again. The BPAs continued the foot pursuit. On several occasions during the foot pursuit, PINEDA continued to disregard verbal commands from the BPAs and threw rocks at BPAs. BPA J.L. told PINEDA to stop throwing rocks or he would shoot him.

6. As BPA R.M. and J.L. began to gain ground on PINEDA, BPA R.M. gave verbal commands to PINEDA, but PINEDA disregarded the commands and again threw rocks at the BPAs. PINEDA was throwing "softball" sized rocks at a high velocity at the BPAs, which the BPAs had to dodge on several occasions to prevent the rocks from striking them in the head.
7. Based on the BPAs' training, they determined that the rocks being thrown at them by PINEDA could cause serious physical injury or death. Due to PINEDA's actions and the totality of the circumstances, BPA R.M., drew his firearm and shot PINEDA in the upper chest/left upper arm area in order to neutralize the threat.
8. Based upon the above, it is hereby alleged, LEIVIN PINEDA assaulted BPA R.M. and J.L. with a deadly or dangerous weapon in violation of Title 18, United States Code, Section(s) 111 (b).

  
ELADIO CASTILLO  
Special Agent,  
Federal Bureau of Investigation

Signed under oath  
 Sept 4 2018

**Victor Roberto Garcia**  
U.S. Magistrate Judge